

Management of Small Docks and Piers



Visual Impacts



National Oceanic and Atmospheric Administration

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Small Dock Management

Not always about environmental issues...

- 
- Aesthetic or scenic issues.
 - “Waterfront Sprawl” or cumulative impacts.
 - Simple reaction to change.



Topics include:

- Legal bases for management
- Visual impact assessment techniques
- Tools/mechanisms available for management
- Examples of some existing visual impact analysis programs
- Case studies of implementation or judicial review of visual impact management

Legislative Bases for Visual Impact Management

Federal, State and Local Level

- **Federal Coastal Zone Management Act**
- **State Environmental Impact Legislation**
- **State Public Trust Regulation**
- **Wetlands Protection Regulation**
- **Municipal Zoning**

Legislative Bases for Visual Impact Management

References may be found in:

- Statutory Language**
- Regulations Supporting Legislation**
- Legislative Findings Associated with Statute**

Legislative Bases for Visual Impact Management

Look for Language Referencing:

- **Scenic Views**
- **Aesthetics**
- **Community Character**
- **Visual Impacts**

Legislative Bases for Visual Impact Management

Legal Authorities Include:

- **Police Powers**

(Public Health, Welfare and Safety)

- **Rights of Ownership**

(State or Municipal Public Property)

Visual Impact Analysis

A scenic view of a coastal area. In the foreground, there is a body of water with some reeds and a small inlet. A long, low pier or breakwater extends from the shore into the water. In the background, there is a larger body of water with a small island in the distance. The sky is blue with some clouds. The entire scene is framed by dense green foliage in the foreground.

- Valid, reproducible analytic techniques
- As valid as environmental impact analysis
- Tools are available for implementation

Visual Impact Analysis

Addresses:

- Direct Impacts on Landscape Elements
- Overall Pattern of Elements that Shape Landscape Character
- Impacts on Publicly Accepted Values



Visual Impact Analysis

Types of Impacts:

- Direct Impacts on Views
(Intrusion or Obstruction)
- Reaction of Viewers
- Overall Impacts on Views
(Degradation or Enhancement)

Richard Smardon:

- Landscape compatibility
- Scale Contrast
- Spatial Dominance



Visual Impact Analysis

In Practice:

- Compare existing and proposed views
- Include full build-out
- Provide sufficient number of views (6–7) to provide fair comparison
- Include views from relevant viewpoints
- Provide information to appropriate decision-makers



Fairhaven, MA; Existing conditions

Fairhaven, MA; Full Build-out



Computer simulation of proposed dock using PhotoModeler®

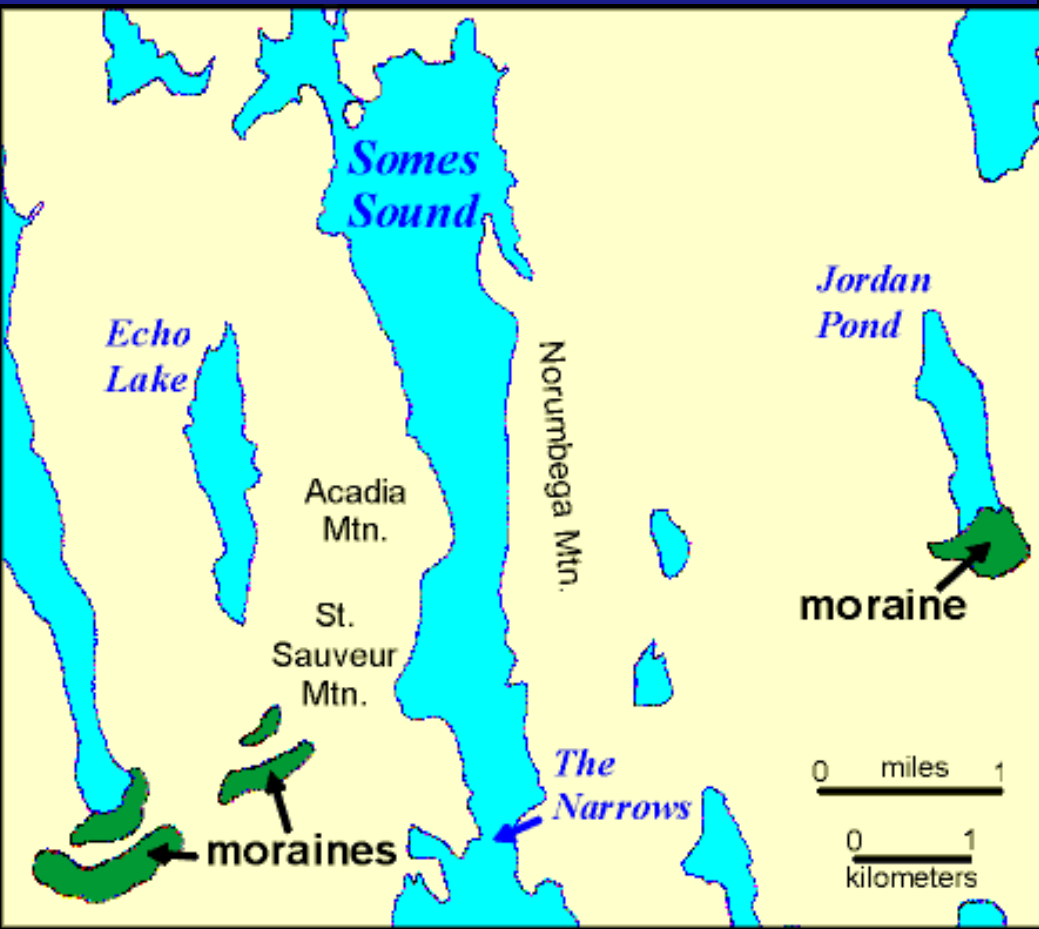
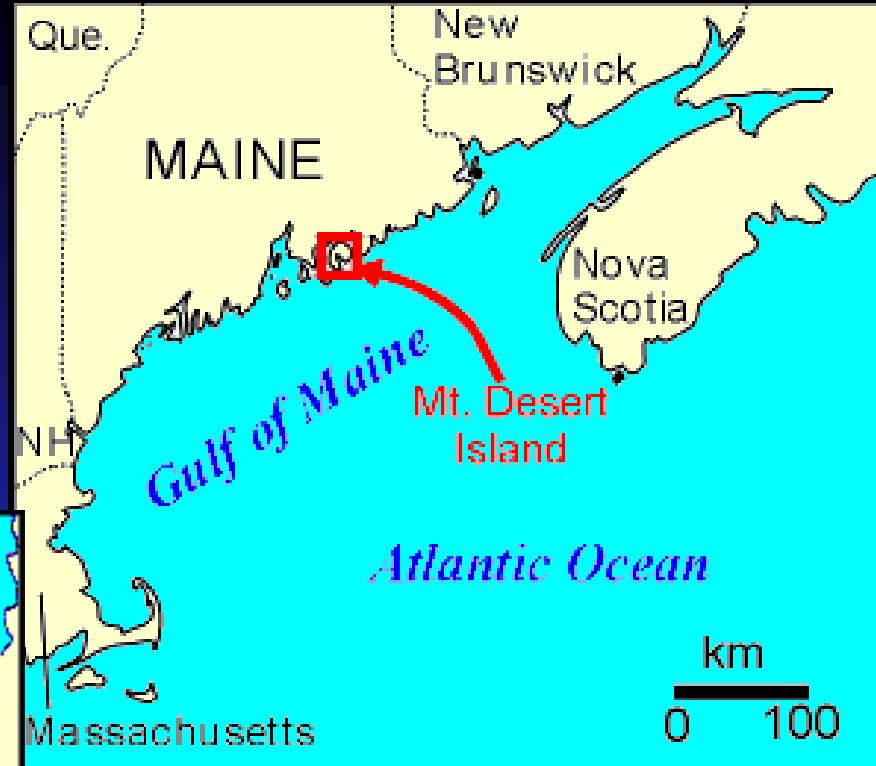
Graphic courtesy Pepperchrome, Portland, ME



Case Study: Somes Sound, Maine



Somes Sound, Maine



Maine Natural Resources Protection Act **(38 M.R.S.A. §§ 480–A–Z).**

Maine DEP reviews projects for impacts to

- **Water quality,**
- **Wetland and habitat considerations,**
- **Erosion, and**
- **Existing uses such as**
 - **navigation**
 - **Scenic and aesthetic qualities.**

Maine DEP Evaluates:

Landscape compatibility **(severe, moderate, minimal none)**

- **Color**
 - **Form**
 - **Line**
 - **Texture**

Maine DEP Evaluates:

Scale Contrast

- **Severe:** major scale introduction/intrusion
- **Moderate:** one of several major objects in confined setting
- **Minimal:** significant object or scale
- **None:** small object or scale

Maine DEP Evaluates:

Spatial Dominance

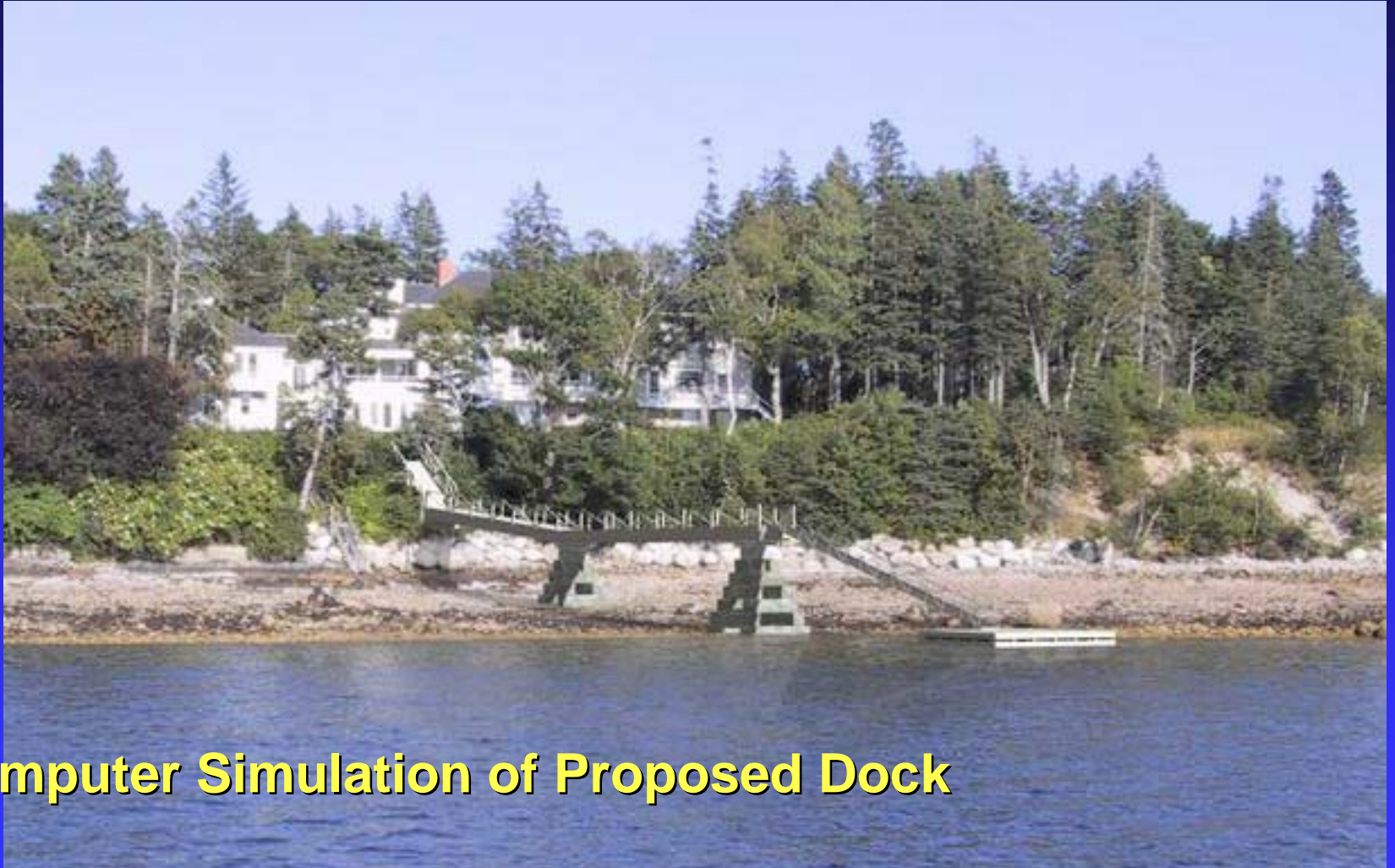
- **Does the proposed structure dominate the whole landscape composition?**
- **Is the proposed structure prominently situated in the landscape?**
- **Does the proposed structure dominate the water or sky backdrop?**

Somes Sound, Maine

Existing setting



Somes Sound, Maine



Computer Simulation of Proposed Dock

Graphic courtesy of Pepperchrome, used with permission

Somes Sound, Maine

Judicial Findings:

- “An administrative decision will be sustained if, on the basis of the entire record before it, the agency could have fairly and reasonably found
the facts as it did”

Somes Sound, Maine

Judicial Findings:

- **“The court should not attempt to second-guess the agency on matters within its realm of expertise”**

Case Study: Lloyd Harbor, NY



Lloyd Harbor, NY



Lloyd Harbor, NY

Zoning Overlay District

- **Designed to protect community character and aesthetics of harbor area**
- **Limit dock lengths to 75 feet**

Lloyd Harbor, NY



Proposal: 115' dock

**To provide safety in loading
Better access to electricity and water
Protection for boat in storms**

Lloyd Harbor, NY

Issues Raised in Challenge

- **Loss of riparian rights**
- **Unconstitutional taking**
- **Ordinance did not promote public health, welfare or safety**
- **Not part of a comprehensive land use plan**
- **Arbitrary and capricious**

Lloyd Harbor, NY

Judicial Findings:

- Appeal denied
- Riparian access may be limited; does not mandate dock
- Coastal overlay zoning district valid
- Not arbitrary and capricious

Lloyd Harbor, NY

Judicial Findings:

- “Generally a municipal zoning ordinance is presumed to be valid and will not be held unconstitutional if its wisdom is at least fairly debatable and it bears a rational relationship to a permissible state objective.”

Lloyd Harbor, NY

Judicial Findings:

- **“Aesthetics serve as another rational basis for the decision by the Village to limit length ... so as to limit human intrusion in this special natural and relatively undeveloped wildlife area.”**

In summary—



- Visual Impact Assessments can yield consistent results.
- Regulatory programs can use these assessments as a basis for reviews.
- Regulations based on visual impact standards have successfully withstood court challenges.

